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10 **Attorneys for Plaintiffs**

11 **UNITED STATES DISTRICT COURT,**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 GABRIELLE AGUIRRE,	)	Case No. 8:23-cv-00128-FWS-JDE
14 REYNA ALEMAN DE RAMIREZ.	)	Assigned for All Purposes to:
15 JENNIFER ALMEYDA,	)	Hon. Fred W. Slaughter
16 REBEKAH ANDERSON,)	
17 JAMES ANDREWS,	)	Complaint Filed: December 9, 2023
18 PHYLLIS ANDREWS,)	
19 PAUL ANGEL,	)	FIRST AMENDED
20 LAURA AYALA,	)	COMPLAINT FOR:
21 EDISON BALDEON,	)	1. NEGLIGENCE
22 KAREN BAUTISTA,	)	2. VIOLATION OF
23 DONICA BELL,	)	CALIFORNIA CIVIL CODE
24 MAHNDI BHATNAGER,	)	§§ 1798.81, et seq.
25 EILEEN BOLAND,	)	3. CONVERSION
26 DIANA BORADZHIEVA	)	4. INVASION OF PRIVACY
27 RODRIGUEZ,	)	5. BREACH OF CONTRACT
28 DANIEL BRANCH,	)	6. BREACH OF CONFIDENCE
		7. IMPLIED COVENANT
		OF GOOD FAITH AND
		FAIR DEALING
		8. UNJUST ENRICHMENT

1 CHARLES COX,)
2 SUSAN COX,)
3 BELINDA CROWELL,)
4 DUSTIN DAZZI,)
5 SABRINA DEARY,)
6 ISABEL DECKER,)
7 SHAUNTE DERRICK,)
8 CRAIG DURHAM,)
9 PEARL EDWARDS,)
10 SHANNON EDWARDS,)
11 KIMBERLY A. EMERSON,)
12 JOSANNE ENGLISH,)
13 ROSA FELIX,)
14 ROBERT FLAIM,)
15 KEVIN FONG,)
16 SHIRLEY FRENCH,)
17 TROVICE FRIERSON,)
18 SYLVIA GATES,)
19 TIMOTHY GONZALES,)
20 LA SHAUNA GRIFFIN,)
21 DONALD HAMILTON,)
22 KATHLEEN HANLEY,)
23 SHARON DENISE HANSEN,)
24 WILLIAM HEATON,)
25 MATT HILL,)
26 MANUEL HOLLY,)
27 CHRISTEIN JOHNSON,)
28 KEITH JOHNSON,)
29 LISA JOHNSON,)
30 MERCEDEZ JOHNSON,)
31 KEYOMI L. JONES,)
32 DOMINIQUE KEETON,)
33 KIARA KEETON,)
34 SHERRI KING,)
35 SHANNYN KING, SR.,)
36 SIERRA KINNEY,)
37 DAVID LAWRENCE,)
38 GREGORY LEWIS,)
39 MIGUEL LIAS,)
40 PHILLIP LOCKHART,)
41
42

1 TABITHA LOPEZ,)
2 CLAUDE MATOS,)
3 JOSEPH J. MAZZOLA,)
4 MELISSA MCCORMICK,)
5 JERRY MCELRATH,)
6 ROBERT MELENDEZ,)
7 JASON MENDOZA,)
8 ANGEK MIRANDA,)
9 WILLIE MONROE,)
10 FRITZ NAJERA,)
11 MELISSA NORRIS,)
12 RONALD EUGENE ORTEGA,)
13 FU-JEN PAN,)
14 FUYUAN PAN,)
15 AMARETT PARRA,)
16 PATRICIA PEREZ,)
17 PHYLLIS PINKARD,)
18 STEVEN PRESCOTT,)
19 JOYCE PRIMM,)
20 STEVEN PRIZAMENT,)
21 DENNIS PROVIDO,)
22 RONALD RAMOS,)
23 ROMAN RANGEL,)
24 TIMOTHY REDDISH,)
25 RACHEL REVIS,)
26 CHRISTIAN REYES,)
27 BETTY RICE BELT,)
28 DAWN RICHARDSON,)
RAQUEL RODRIGUEZ,)
ELVIA SAENZ,)
BARBARA SANDOVAL,)
ERNIE SANDOVAL,)
AARON SCHLITT,)
KIMBERLY SERRANO,)
KYLE SMITH,)
STACY SMITH,)
DELORES SNELL,)
ANNE SONDERGAARD,)
ANTHONY SONDERGAARD,)
PAULA STEVENS-PIKE,)

1 KIMBERLY SUMMERS,)
2 RUDY TAURA,)
3 ALYCE TYLER,)
4 KATHY URBANO,)
5 ELOISA VEGA MARTINEZ,)
6 RICHARD WANG,)
7 DEANNA WARRINER,)
8 SHANNON WILDER,)
9 KIMBERLY WILLIAMS,)
10 NARKELL WILLIAMS,)
11 KATHLEEN WISE,)
12 BRUCE M. WOODRUFF,)
13 LAWRENCE WRIGHT,)
14 SIMONE YOUNG,)

15 PLAINTIFFS,

16 V.
17

18 CAPITAL ONE BANK (USA) N.A.
19 AND DOES 1 THROUGH 100
20 INCLUSIVE,
21

22 DEFENDANTS.
23

24 Plaintiffs allege as follows:
25

PARTIES

26 1. Plaintiffs are individuals, competent adults and residents of the State of
27 California.
28

2. Plaintiffs are informed and believe, and thereupon allege, that defendant
29 CAPITAL ONE BANK (USA) N.A. (“Capital One”), is now, and at all times
30 mentioned in this Complaint was, a corporation based in the State of
31 Virginia with no principal place of business in California but is doing
32

1 business in the State of California.

2 3. Plaintiffs do not know the true names or capacities of the Defendants sued
3 herein as DOES 1 through 100 inclusive, and therefore sue these
4 Defendants by such fictitious names. Plaintiffs will amend this complaint
5 to allege their true names and capacities when ascertained. Plaintiffs are
6 informed and believe, and thereon allege, that each of these fictitiously
7 named Defendants is responsible in some manner for the occurrences
8 herein alleged, and that Plaintiffs' damages as herein alleged were
9 proximately caused by those defendants. Each reference in this complaint
10 to "Defendant" or "Defendants" or to a specifically named defendant
11 refers also to all defendants sued under fictitious names.

12 4. Plaintiffs are informed and believe, and thereon allege, that at all times
13 herein mentioned each of the Defendants, including all Defendants sued
14 under fictitious names, and each of the persons who are not parties to this
15 action but are identified by name or otherwise throughout this complaint,
16 was the alter ego of each of the remaining defendants, was the successor
17 in interest or predecessor in interest, and was the agent and employee of
18 each of the remaining defendants and in doing the things herein alleged
19 was acting within the course and scope of this agency and employment.

20 21 **FIRST CAUSE OF ACTION FOR NEGLIGENCE AGAINST ALL**

DEFENDANTS

5. Plaintiffs incorporate in this cause of action the allegations contained in paragraphs 1 through 4, inclusive.
6. Plaintiffs were Capital One account holders between 2005 and 2019.
7. All Plaintiff entered into contractual relations with Capital One to obtain credit card services. As part of the application process, Plaintiffs were required to turn over personal identifying information (PII) including names, addresses, zip codes, phone numbers, email addresses, dates of birth, self-reported income, social security numbers, and bank account numbers to Capital One in order to apply for and obtain credit card services.
8. Capital One stored Plaintiffs' personal identifying information (PII) including information identified above as well as credit scores, credit card limits, credit card balances, credit card payment history, and transaction data.
9. As part of this contractual relationship, Plaintiffs reasonably understood and expected that Capital One would adequately protect their PII and timely inform them of any misappropriations of that data.
10. In addition, Capital One falsely represented to Plaintiffs and the general public that their PII databases were secure and their PII would

1 remain private. Capital One misleadingly represented that it will protect
2 the “personal information [the customers provide in order to obtain the
3 services] from unauthorized access and use [by employing] security
4 measures that comply with federal law.” Capital One further represented
5 that “security is a top priority,” specifying that it “prohibit[s] the unlawful
6 disclosure of [applicant’s] Social Security number[s]” and that it uses
7 “some of the strongest forms of encryption commercially available for use
8 on the Web today.

11
12 11. Capital One’s privacy statement which was presented to Plaintiffs before
13 they contracted with it, stated as follows:

14
15 At Capital One, we make your safety and security a top priority
16 and are committed to protecting your personal and financial
17 information. If we collect identifying information from you, we
18 will protect that information with controls based upon
internationally recognized security standards, regulations, and
industry-based best practices.

19
20 12. Capital One’s contract with Plaintiffs explicitly identified “privacy notices”
21 as documents that governed their Capital One accounts.

22
23 13. Capital One knew or should have known it did not employ reasonable,
industry standard, and appropriate security measures that complied
24
25 “with federal regulations” and that would have kept Plaintiffs’ PII and
26 financial information secure and prevented the loss or misuse of
27 Plaintiffs’ PII and financial information. Indeed, at the time of the data
28

1 breaches, Capital One's cloud storage provider AWS was widely known to
2 be vulnerable to Server Side Request Forgery attacks. Additionally, in
3 2016, Capital One joined forces with the provider of the cloud storage to
4 announce that they had found a way to protect the information from the
5 above kind of attacks and yet the PII was still compromised up until at
6 least early 2019. Lastly, the hacker that ultimately took the information
7 openly bragged in April of 2019 about taking the information on Twitter,
8 and yet Capital One was not aware of the breach at that time.
9

10
11 14. Even without these misrepresentations, Plaintiffs and other Capital One
12 accountholders were entitled to assume and did assume Capital One
13 would take appropriate measures to keep their PII safe. Capital One did
14 not disclose at any time that Plaintiffs' PII was vulnerable to hackers
15 because Capital One's storage cloud provider was vulnerable to specific
16 kinds of attacks, and Capital was the only one in possession of that
17 material information, which they had a duty to disclose. Capital One
18 misrepresented, both by affirmative conduct and by omission, the safety
19 of its many systems and services, specifically the security thereof, and
20 their ability to safely store Plaintiffs' PII. Capital One also failed to
21 implement reasonable and appropriate security measures or follow
22 industry standards for data security, failing to comply with its own posted
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1 privacy policies and failed to timely identify the breach. If Capital One had
2 complied with these legal requirements, and discovery the breach earlier,
3 Plaintiffs likely would have suffered fewer damages arising from the data
4 breach.

5 15. On July 29, 2019, Capital One announced it had experienced a data breach
6 on some earlier occasion that impacted consumers who applied for
7 Capital One credit card products from 2005 through “early 2019”. The
8 breach was done by a hacker.

9 16. As a result, the hacker and other third parties gained access to the
10 contents of Plaintiffs’ accounts including addresses, zip codes, phone
11 numbers, email addresses, dates of birth, self-reported income, social
12 security numbers, bank account numbers, credit scores, credit card limits,
13 credit card balances, credit card payment history, and fragments of
14 transaction data.

15 17. After obtaining Plaintiffs’ PII from Capital One, the hacker posted the
16 stolen data on an Internet website called Github and provided
17 instructions how anyone could access the information. Subsequently, a
18 number of persons who, like Plaintiffs, became victims of actual identify
19 theft or misuse of their PII as established in the In Re Capital One
20 Consumer Data Sec. Breach Litig., MDL No. 1:19-md-2915 case.

1 18. It took Capital One approximately four months to realize its vast
2 collection of customers PII had been compromised.
3

4 19. The statute of limitations on all claims arising from the data breaches has
5 been tolled since October 2019 as a result of the filing and settlement of
6 various class actions including the main one in United States District
7 Court Eastern District of Virginia, Case No. 1:19-md-02915-AJT-JFA.
8

9 20. The Plaintiffs' PII has been distributed through a global network
10 commonly used by criminals called "the dark web."
11

12 21. Capital One owed a duty to Plaintiffs to keep their confidential
13 information in its possession safe from disclosure to unauthorized third
14 parties.
15

16 22. Capital One breached this duty of care by failing to exercise reasonable
17 care and implement adequate security systems, protocols and practices
18 sufficient to protect the PII of Plaintiffs, by failing to detect the breach
19 while it was ongoing or even promptly after it occurred, and by failing to
20 maintain security systems consistent with industry standards.
21

22 23. The sensitive personal and financial information compromised in
23 these breaches is extremely valuable to thieves and hackers. These
24 criminals have gained access to complete profiles of individuals' personal
25 and financial information. They can then use such data to steal the
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27

1 identities of the accountholders whose information has been
2 compromised or sell it to others who plan to do so. The identity thieves
3 can assume these account holders' identities (or create entirely new
4 identities from scratch) to make transactions or purchases, open credit or
5 bank accounts, apply for medical services, apply for jobs, apply for loans,
6 forge checks, commit immigration fraud, obtain a driver's license in the
7 member's or customer's name, obtain government benefits, or file a
8 fraudulent tax return.
9

10
11 24. Criminals can also attempt to access the consumers' existing bank and
12 brokerage accounts by posing as the accountholder during a phone
13 conversation to "reset" the password or change the customer's mailing
14 address or email address.
15

16
17 25. When identity thieves fraudulently use a victim's personal
18 information, the victim frequently suffers financial consequences. When
19 sensitive personal information is compromised, consumers must exercise
20 constant vigilance on their financial and personal records to ensure that
21 fraudulent activity has not occurred. Victims are forced to spend
22 additional time monitoring their credit and finances as well as dealing
23 with any potentially fraudulent activity. Victims also face significant
24 emotional distress after theft of their identity. The fear of financial harm
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1 can cause significant stress and anxiety for many consumers.

2 26. As a direct and proximate result of the aforementioned negligent
3 conduct by Capital One, Plaintiffs sustained actual damages, including
4 economic loss and emotional distress, in an amount according to proof.
5 Capital One knew it was a target for cyber hacks, it had been breached
6 before 2019, it recognized the risk of storing the PII, and knew in advance
7 of the same vulnerability that the hacked eventually exploited. The
8 conduct of the hacker was entirely foreseeable to Capital One but it simply
9 did not take adequate measures to prevent it.

10 27. Each of the Plaintiffs has experienced substantial and ongoing
11 emotional distress, which has sometimes manifested in physical
12 symptoms, as a result of the data breaches.

13 28. Each of the Plaintiffs has expended time and effort and incidental costs
14 in an effort to mitigate the harm by researching and taking steps to
15 ascertain whether his or her personal information has been used to
16 commit identity theft or otherwise misused, by placing security freezes or
17 removing freezes on his or her credit reports, and will need to continue to
18 do so for the foreseeable future.

19 **SECOND CAUSE OF ACTION FOR VIOLATION OF CALIFORNIA**

20 **CIVIL CODE § 1798.81 et seq.**

1 29. Plaintiffs incorporate in this cause of action the allegations contained
2 in paragraphs 1 through 28, inclusive.
3

4 30. Civil Code § 1798.81.5, the Customer Records Act (CRA), provides that
5 “a business that owns, licenses, or maintains personal information about
6 a California resident shall implement and maintain reasonable security
7 procedures and practices appropriate to the nature of the information, to
8 protect the personal information from unauthorized access, destruction,
9 use, modification, or disclosure.”
10

11 31. Capital One was a business subject to the foregoing provision because it
12 owned and maintained personal information about California residents
13 (including Plaintiffs).
14

15 32. For purposes of the CRA, and as specified in Civil Code § 1798.80 (d),
16 “personal information” includes the information disclosed by Capital One
17 in the data breaches.
18

19 33. The exposure of the personal information of Defendant’s current and
20 former customers through a misconfiguration in its firewall to an
21 unauthorized third party was a “breach of the security system” of
22 Defendant as defined by Civil Code § 1798.82 (g).
23

24 34. By failing to implement reasonable security measures appropriate to
25 the nature of the personal information of its current and former
26

1 customers as described above, Defendant violated Civil Code §1789.81.5.

35. By failing to immediately notify all affected current and former
3
4 customers that their personal information had been acquired (or was
4
5 reasonably believed to have been acquired) by unauthorized persons in
6
6 the data breach, Defendant violated Civil Code §1789.82.

8 36. As a direct and proximate result of the violation of the CRA, Capital
9 One is liable to Plaintiffs for all "actual damages" suffered by Plaintiffs
0 including special and general damages as pled above.

12 37. In addition, because Capital One's conscious and knowing reckless
13 disregard in the handling of Plaintiffs' personal information was so
14 extreme as to constitute malice, Plaintiffs are entitled to recovery of
15 exemplary or punitive damages.
16

THIRD CAUSE OF ACTION FOR CONVERSION AGAINST ALL

DEFENDANTS

20 38. Plaintiffs incorporate in this cause of action the allegations contained
21 in paragraphs 1 through 37, inclusive.

22 39. Prior to the aforementioned data breaches, Plaintiffs were in
23 possession, had the right to immediate possession, and were the owners
24 with right to possession of certain intangible personal property—namely,
25 their personal identifying information.
26
27

1 40. As previously alleged, Capital One permitted one or more unknown
2 parties to access and steal Plaintiffs' PPI. It was foreseeable that this
3 breach would occur and the PPT would be compromised as its cloud
4 storage provider was widely known to be vulnerable to the kind of attack
5 that led to the breach in this case.
6

7 41. In permitting unauthorized persons to access Plaintiffs' PPI, Capital One
8 exercised ownership and control over the property in a manner
9 inconsistent with Plaintiffs' property rights.
10

11 42. As a direct and proximate result of the aforementioned acts of
12 conversion committed by Capital One, Plaintiffs sustained actual
13 damages, including economic loss and emotional distress as set forth
14 previously, in an amount according to proof.
15

16 43. In addition, because Capital One's conscious and knowing reckless
17 disregard in the handling of Plaintiffs' personal information was so
18 extreme as to constitute malice, Plaintiffs are entitled to recovery of
19 exemplary or punitive damages.
20

21 **FOURTH CAUSE OF ACTION FOR INVASION OF PRIVACY**

22 **AGAINST ALL DEFENDANTS**

23 44. Plaintiffs incorporate in this cause of action the allegations contained
24 in paragraphs 1 through 43, inclusive.
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1 45. Plaintiffs have a legally protected privacy interest in their PII that
2 Capital One required them to provide and stored. Plaintiffs reasonably
3 expected that their PII would be protected and secured from unauthorized
4 parties and would not be disclosed to any unauthorized parties or
5 disclosed for any improper purpose.
6

7 46. Capital One unlawfully invaded the privacy rights of Plaintiffs by (a)
8 failing to adequately secure their PII from disclosure to unauthorized
9 parties for improper purposes; (b) disclosing their PII to unauthorized
10 parties in a manner that is highly offensive to a reasonable person; and (c)
11 disclosing their PII to unauthorized parties without the informed and
12 clear consent of Plaintiffs. Further, Capital One invaded the privacy rights
13 of Plaintiffs by failing to adequately or timely take steps to remediate the
14 data breaches, or provide Plaintiffs notice of the data breaches, once
15 Capital One possessed knowledge to a substantial certainty that the data
16 breaches were occurring, and that Plaintiffs were being harmed. This
17 invasion into the privacy interest of Plaintiffs was serious and substantial.
18

22 47. In failing to adequately secure Plaintiffs' PII, Capital One acted in
23 reckless disregard of their privacy rights. Capital One knew or should have
24 known that their substandard data security measures are highly offensive
25 to a reasonable person in the same position as Plaintiffs.
26
27

1 48. Capital One violated Plaintiffs' right to privacy under the common law
2 as well as under state law, including but not limited to the California
3 Constitution, Article I, Section I.
4

5 49. As a direct and proximate result of Capital One's unlawful invasions of
6 privacy, Plaintiffs' PII has been viewed or is at imminent risk of being
7 viewed, and their reasonable expectations of privacy have been intruded
8 upon and frustrated. Plaintiffs have suffered injury as a result of Capital
9 One's unlawful invasions of privacy and are entitled to appropriate relief.
10
11

FIFTH CAUSE OF ACTION FOR BREACH OF CONTRACT

AGAINST ALL DEFENDANTS

14 50. Plaintiffs incorporate in this cause of action the allegations contained
15 in paragraphs 1 through 49, inclusive.
16

17 51. As alleged above, Plaintiffs entered into a financial relationship with
18 Capital One under which Plaintiffs agreed to pay to use its credit card
19 services, whether in the form of annual fees, finance charges or higher
20 prices due to the embedded cost of merchant processing fees that are
21 commonly passed on to the consumer purchasers. As part of this bargain,
22 which was manifested in the privacy notices, cardmember agreement and
23 website disclosures, Plaintiffs entrusted Capital One with PII with the
24 expectation it would be kept secure.
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1 52. If Plaintiffs had known Capital One was not going to adequately protect
2 their PII, they would have either declined to enter into the contract,
3 terminated the existing relationship, or been willing to pay a lower “price”
4 for the credit card services.

5 53. Secure maintenance of Plaintiffs’ PII was a material obligation of
6 Capital One under the contracts.

7 54. As result of failing to use adequate security measures as referenced by
8 federal and state law and industry practices, Capital One breached the
9 promise to use the level of security measures promised.

10 55. Capital One is in the possession of the contracts between Plaintiffs and
11 itself and those documents are not readily available to Plaintiffs.
12 Therefore, the contracts cannot be attached but the material terms have
13 been alleged.

14 56. As a result of Capital One’s breach, Plaintiffs lost the benefit of the
15 bargain and overpaid for the services, and suffered incidental and
16 consequential damages according to proof.

17 **SIXTH CAUSE OF ACTION FOR BREACH OF CONFIDENCE**

18 **AGAINST ALL DEFENDANTS**

19 57. Plaintiffs incorporate in this cause of action the allegations contained
20 in paragraphs 1 through 56, inclusive.

1 58. As an alternative to the claim for breach of the express contract to
2 maintain the PII securely, Plaintiffs allege that the relationship or
3 contract between themselves and Capital One involved an implied
4 obligation that their PII would not be disclosed to outsiders.

5 59. As alleged previously, Plaintiffs conveyed their confidential PII to
6 Capital One, which had knowledge that the information was disclosed in
7 confidence, and there was an understanding that the confidence would be
8 maintained. However, the data breach/hacking incident constituted a
9 disclosure in violation of this understanding.

10 60. Plaintiffs were damaged by the violation of the understanding as
11 previously alleged.

12 **SEVENTH CAUSE OF ACTION FOR BREACH OF THE IMPLIED**
13 **COVENANT OF GOOD FAITH AND FAIR DEALING AGAINST**
14 **ALL DEFENDANTS**

15 61. Plaintiffs incorporate in this cause of action the allegations contained in
16 paragraphs 1 through 60, inclusive.

17 62. Every contract imposes upon each party a duty of good faith and fair
18 dealing in its performance and its enforcement.

19 63. This covenant is intended to protect “the reasonable expectations of
20 the contracting parties in light of their express agreement.” It is a doctrine

1 that modifies the meaning of all explicit terms in a contract, preventing a
2 breach of those explicit terms de facto when performance is maintained
3 de jure.

4 64. In this case, Capital One may claim there was no contractual
5 relationship that addressed handling of PII. Under such circumstances,
6 it was an implied term of the contractual relationship that Capital One
7 would protect Plaintiffs' PII.

8 65. Invoking the implied covenant as to any cardmember agreements
9 would not override any of the express terms of the agreement between the
10 parties. The purpose of the contract was to provide credit card services,
11 not expose personal information.

12 66. Plaintiffs were damaged by the violation of the implied covenant as
13 previously alleged.

14 **EIGHTH CAUSE OF ACTION FOR UNJUST ENRICHMENT**

15 **AGAINST ALL DEFENDANTS**

16 67. Plaintiffs incorporate in this cause of action the allegations contained
17 in paragraphs 1 through 60, inclusive.

18 68. As an alternative to the claim for breach of the express contract to
19 maintain the PII securely, Plaintiffs allege that the relationship between
20 themselves and Capital One resulted in Capital One receiving a benefit in
21

1 the form of the economic value of their account (as measured by finance
2 charges, credit card processing fees, etc.) at the expense of Plaintiffs
3 whose PII was compromised.
4

5 69. The unjust enrichment would not have occurred if Capital One had
6 expended sufficient resources to safeguard their PII. Capital One should
7 not be permitted to retain the benefit of Plaintiffs' accounts.
8

9 **REQUEST FOR JURY TRIAL**

10 WHEREFORE, Plaintiffs request trial by jury.
11

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment on all causes of action
14 against Defendant as follows:
15

- 16 1. For compensatory damages in an amount according to proof;
- 17 2. For punitive damages in an amount according to proof;
- 18 3. For restitution and disgorgement of money by which Defendant was
19 unjustly enriched;
- 20 4. For interest on the sum of money awarded as damages;
- 21 5. For costs of suit incurred herein; and
- 22 6. For such other and further relief as the court may deem proper, except
23 that Plaintiffs do not seek declaratory relief, injunctive relief or any other
24 type of equitable relief.
25
26

27 DATED: July 21, 2023
28

Respectfully submitted,

By

Jeffrey Wilens

JEFFREY WILENS
Attorney for Plaintiff